

§ 1424.9

7 CFR Ch. XIV (1–1–01 Edition)

(5) Subject to other provisions of this section, producers shall be paid the net current payment, if positive, determined for the first quarter.

(6) After the first quarter, adjustments shall be made based on changes in production. New or renewed increases shall be paid using the formula set out above using current per unit values. Refunds, when due, shall be due at the per unit values at which they were paid unless CCC determines otherwise.

(7) If despite or in the absence of a proration under paragraph (d) of this section funds shall not be sufficient to cover payments due for any quarter then CCC shall prorate, or further prorate, the claims in such manner as CCC deems fit.

(8) No producer may receive more than five percent of the available funding for this program and determinations of payment eligibility shall take that limit into account.

§ 1424.9 Reports required.

Once an eligible producer has submitted an Agreement, Form CCC-850, that producer shall file information for each bioenergy producing facility quarterly through the end of the applicable FY as specified by CCC.

§ 1424.10 Succession and control of facilities and production.

A person who obtains a facility which is under contract under this part may request permission to succeed to the program contract and CCC may grant such request if it is determined that permitting such succession would serve the purposes of the program. As determined to be appropriate, CCC may require the consent of the original party to such succession and likewise CCC may terminate a contract and demand a full refund of payments made if a contracting party loses control of a facility whose increased production is the basis of a program payment or otherwise fails to retain the ability to assure that all program obligations and requirements will be met.

§ 1424.11 Maintenance and inspection of records.

For the purpose of verifying compliance with the requirements of this

part, each eligible producer shall make available at one place at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to the program that is within the control of such entity for not less than 3 years from the payment date.

§ 1424.12 Appeals.

(a) Any producer who is subject to an adverse determination made under this part shall have a right to appeal the determination by filing a written request with the Deputy Administrator at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550.

(b) Any producer who believes that they have been adversely affected by a determination under this part must seek review with the Deputy Administrator within thirty days of such determination, unless provided with notice by FSA which provides a different time for appealing.

(c) Any producer who believes that they have been adversely affected by a determination by the Agency, must seek review with the Deputy Administrator before any other review may be requested within the Agency.

§ 1424.13 Misrepresentation and scheme or device.

(a) A producer shall be ineligible to receive payments under this program if CCC determines the producer:

(1) Adopted any scheme or device which tends to defeat the purpose of the program in this part;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the bioenergy producer's actions, shall be refunded with interest together with such other sums as may become due, plus damages as may be determined by CCC.

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(c) Interest charged under this part shall at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such funds available. Such interest shall accrue from the date such payments were made available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) CCC may waive the accrual of interest and or damages if CCC determines that the cause of the erroneous determination was not due to any action of the bioenergy producer.

(e) Any producer or person engaged in an act prohibited by this section and any producer or person receiving payment under this part shall be jointly and severally liable for any refund due under this part and for related charges.

(f) The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

(g) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 1403.

(h) Other limitations may apply.

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

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AUTHORITY: 7 U.S.C. 1441 and 1421, 7 U.S.C. 7231–7237; and 15 U.S.C. 714b, 714c, and 714j.

SOURCE: 63 FR 17312, Apr. 9, 1998, unless otherwise noted.

§ 1425.1 Applicability.

This part sets forth the terms and conditions an approved Cooperative Marketing Association (CMA) must meet to obtain commodity marketing assistance loans (loans) and loan deficiency payments (LDP's) from CCC on behalf of its members. A CMA meeting these terms and conditions may obtain loans and LDP's for any eligible commodity for which a loan and LDP program is in effect.

§ 1425.2 Administration.

On behalf of CCC, the Farm Service Agency will administer the provisions of this part under the general direction and supervision of the Deputy Administrator for Farm Programs. In the field, the provisions of this part will be administered by the State and county FSA committees.

§ 1425.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in parts 718 of this title and parts 1421 and 1427 of this chapter shall also be applicable, except where those definitions conflict with the definitions in this section.

Active member is a member who has utilized the services offered by a CMA in one of the three preceding CMA fiscal years or such shorter period as may be provided in the CMA's articles of incorporation or bylaws.

Approved cooperative marketing association (CMA) is a cooperative approved by CCC to participate in loan and LDP programs for any authorized commodity.

Authorized commodity is a commodity for which a CMA is approved by CCC to obtain loans or LDP's. Commodities for which a CMA may be approved by CCC are barley, canola, corn, cotton, flaxseed, mustard seed, oats, rapeseed, rice, safflower, sorghum, soybeans, sunflower seed, and wheat.

Cooperative is a business owned and controlled by the producers who use its